

REMARKS

In the Final Office Action of May 9, 2005, claims 1-7 and 11-17 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Application 2004/0193669, by Shirani (hereafter referred to as Shirani). Claims 8 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shirani in view of US Patent Application 2003/0090339, by Yu et al. (hereafter referred to as Yu). Further, claims 1-5, 9-15, and 19-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Application 2004/0131128, by Roy et al. (hereafter referred to as Roy) having an effective filing date of January 8, 2003.

A response to the Final Office Action was filed on July 27, 2005 addressing the claim rejections based on the Shirani reference. The Advisory Action of August 2, 2005 indicated that the Applicant's response overcame the rejection of claims 1-7 and 11-17 under 35 U.S.C. § 102(e) based on the Shirani reference. The Advisory Action also indicated, however, that claims 1-5, 9-15, and 19-20 remained rejected under 35 U.S.C. § 102(e) based on the Roy reference.

In this supplemental response, Applicant hereby swears behind the January 8, 2003 effective filing date of the Roy reference under C.F.R. 1.131. Under C.F.R. 1.131, the inventor(s) of the claimed invention may submit an appropriate declaration to overcome a reference. The declaration must include facts showing a completion of the invention in the United States before the effective date of the reference. The showing of facts shall be such as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference

coupled with due diligence from prior to the effective date of the reference to a subsequent reduction to practice or to the filing of the application. See 37 C.F.R. 1.131.

To show conception of the claimed subject matter in the United States before the effective filing date of the Roy reference and diligence from prior to the effective date of the Roy reference to the filing of the present application under C.F.R. 1.131, the Applicant attaches: 1) a declaration from the sole inventor Lars Erik Thon; 2) a declaration from John Stattler, the attorney who prepared and filed the present application; 3) a copy of an invention disclosure (Exhibit A) written by the inventor Lars Erik Thon prior to January 8, 2003; 4) a copy of invoices (Exhibit B) for attorney and other fees incurred by Stattler Johnsen & Adeli LLP for preparing and filing the present application; and 5) a copy of the billing entries (Exhibit C) for John Stattler of Stattler, Johansen & Adeli LLP showing the progress of the present application as well as billings for other clients and cases from prior to January 8, 2003 to July 7, 2003.

Applicants submit that conception of the claimed subject matter before the effective filing date of the Roy reference and diligence from prior to the effective date of the Roy reference to the filing of the present application is evidenced by the above-mentioned attachments and the following remarks.

I: Conception of Invention Shown by Invention Disclosure and Inventor Declaration

The attached invention disclosure (Exhibit A) was written by the inventor Lars Erik Thon prior to January 8, 2003. The invention disclosure discloses the subject matter claimed in the present application. Of note, Figure 3 of the invention disclosure shows the features of claim 1, including a delay element, the calibration circuit, and the multiplier-

summing circuit. Further, the written description of the invention disclosure describes the features of Figure 3 and claim 1 starting from the fifth full paragraph onwards. Additionally, please see the declaration of inventor Lars Erik Thon submitted under C.F.R. 1.131 supporting evidence of the foregoing. The invention disclosure and the declaration of inventor Lars Erik Thon show conception of the claimed subject matter prior to January 8, 2003.

II: Diligence Shown by Invoices, Billing Records, and Attorney Declaration

The attached invoices (Exhibit B) show attorney and other fees incurred by Stattler Johnsen & Adeli LLP for preparing and filing the present application. The date of the initial invention disclosure with Lars Erik Thon at Aeluros, Inc. has been redacted but was prior to January 8, 2003. The invoices show dates and descriptions of the progress of the preparation and filing of the present application from prior to January 8, 2003 to July 7, 2003. The attached billing records (Exhibit C) show billing entries for John Stattler of Stattler, Johansen & Adeli LLP showing dates of the progress of the present application as well as dates of billings for other clients and cases that were taken up expeditiously in chronological order from prior to January 8, 2003 to July 7, 2003. Additionally, please see the declaration of attorney John Stattler submitted under C.F.R. 1.131 supporting evidence of the foregoing. The invoices, billing records, and the declaration of attorney John Stattler show diligence in constructively reducing to practice the claimed invention from prior to January 8, 2003 to July 7, 2003 when the present application was filed.

Furthermore, it is the Applicant's position that the present invention is distinguishable over Roy. However, in view of the present C.F.R. 1.131 declarations and supporting evidence, Applicant has not presented arguments herein to distinguish the invention over Roy. Applicant respectfully submits that all pending claims are allowable over Roy based on all the foregoing reasons and evidence. Accordingly, applicants respectfully request that patentability of the pending claims be reconsidered in light of the above remarks.

CONCLUSION

Based on the foregoing remarks, Applicants believe that the rejections in the Final Office Action of May 9, 2005 are fully overcome and that the application is in condition for allowance. If the Examiner has any questions regarding the case, the Examiner is invited to contact Applicants' undersigned representative at the number given below.

Respectfully submitted,

STATTLER, JOHANSEN & ADELI LLP

Dated: 10/7/05



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